

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 18 1993

In the Matter of)
)
Implementation of the Cable)
Television Consumer Protection)
and Competition Act of 1992:)
)
Cable Home Wiring)

MM Docket

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NYNEX COMMENTS

The NYNEX Telephone Companies ("NYNEX")¹ hereby comment on the Commission's Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned matter.

I. CABLE HOME WIRING RULES SHOULD APPLY TO LOOP-THROUGH SYSTEMS IN CERTAIN CIRCUMSTANCES

In its February 2, 1993 Report and Order in this proceeding,² the Commission adopted regulations that require cable operators, upon voluntary termination of service by a subscriber, to give the subscriber the opportunity to purchase the cable home wiring (i.e., the cable wiring within the premises of the subscriber, beginning at the demarcation point) for no more than the per-foot replacement cost. In its Order, the Commission excluded multiple dwelling unit (MDU) loop-through wiring³ from this rule. As a result,

¹ The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

² 8 FCC Rcd 1435 (1993).

³ In a loop-through cable wiring system, a single cable is used to provide service to either a portion of or an entire MDU building. Every subscriber on the loop is limited to receiving video services from the same provider. If the cable is broken or removed, signals to all succeeding units would be interrupted.

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cable operators in loop-through MDU buildings are not required to sell the wire to subscribers upon termination of service, and subscribers in these buildings cannot purchase that portion of the loop-through cable wiring located inside his or her dwelling unit.

In its January 26, 1996 Order on Reconsideration in this proceeding,⁴ the Commission denied NYNEX's Petition for Reconsideration that had requested that loop-through cable be included in the home wiring rules and that control of loop-through wiring in MDU buildings be granted to the owner of the building. The Commission found that inclusion of loop-through systems within its cable home wiring rules would be impractical, in part because the Commission believed that establishing a separate demarcation point for each subscriber on a loop-through system, and deciding how much wiring each subscriber should have the option to buy, would not be feasible.

The Commission, however, did issue the instant FNPRM to address several other issues relating to loop-through wiring: whether it should prohibit future installations of loop-through wiring; and whether building owners should be allowed to purchase loop-through wiring in the limited situation where all subscribers in a MDU building want to switch to a new service provider.

NYNEX has long urged the Commission to apply its cable home wiring rules to loop-through systems.⁵ By installing loop-through systems in MDU buildings, cable service providers have effectively prevented the development of competition for video

⁴ FCC 95-503 (January 26, 1996).

⁵ See NYNEX Petition for Reconsideration, MM Docket No. 92-260 (April 1, 1993).

services, because the subscriber can only use the cable system that serves the entire building.

NYNEX believes that competition would be better served by allowing the building owner rather than the incumbent cable services provider to determine access to and use of the loop-through wiring. NYNEX thus supports the Commission's proposal to grant the building owner control of the loop-through wiring in the limited situation where all subscribers in a MDU building want to switch to a new service provider. This will promote competition and would allow the new video provider to avoid having to rewire the entire building. In such situations, it is reasonable that the building owner should be required to purchase the existing cable wiring based on the per-foot replacement cost, the same basis used today for individual subscribers.

NYNEX also believes that the current exclusion of all cable wiring used in loop-through systems is overbroad. Even in loop-through systems, there is inevitably some length of wiring which is used by one subscriber. The Commission should therefore adopt rules giving the individual subscriber control of that portion of loop-through wiring that is used exclusively by the subscriber. In the event that an alternative video provider offers service in the building, the subscriber will be able to use that wiring for the alternative video programming service⁶ and will avoid the disruption of having the old wire removed and new wire installed.

⁶ In its Comments filed today in CS Docket No. 95-184, NYNEX urges the Commission to amend its cable home wiring rules to grant customer exclusive control over their cable home wiring upon installation, rather than only upon termination as is the case under the current rules.

Finally, NYNEX again urges the Commission to adopt a rule that bars cable companies from installing loop-through systems in new MDU buildings. This, too, will help to ensure that subscribers have the opportunity to use any video provider that offers service in a MDU building.

II. SUBSCRIBERS SHOULD HAVE CONTROL OVER THEIR INSIDE WIRE WHEREVER POSSIBLE

The FNPRM also seeks comment regarding whether persons other than the subscriber or the cable operator should have the right, in limited circumstances, to purchase the cable home wiring. NYNEX has long urged the Commission to grant subscribers full control of their cable inside wire. Customer choice is the cornerstone of a competitive market, and true competition for cable services cannot be achieved unless customers have the ability to choose freely among the services offered by competing providers. Permitting the customer to own or control cable home wiring will help to ensure that customers can exercise free choice regarding the provision of cable and video services. This, in turn, will help achieve the Commission's objective of increased competition and efficient deployment of new video services.

Consistent with this policy, NYNEX agrees with the Commission that in situations where the building owner or condominium association terminates cable service for an entire building, the subscriber should have the right to purchase the inside wiring. As above, the subscriber should be allowed to purchase the existing cable wiring at per-foot replacement cost.

Finally, NYNEX agrees with the Commission's proposal that the cable operator must make every effort to remove its inside wiring, if it so wishes, no later than seven (7)

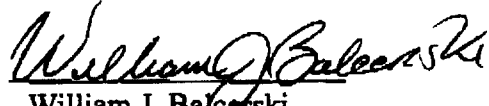
business days after the subscriber terminates service. It is incumbent upon the cable operator to ascertain from the premises owner when this can be accomplished during this period. If the cable operator fails to act promptly and the premises are subsequently occupied by a new subscriber who refuses to grant access to the premises, the cable operator is simply out of luck and loses any right to subsequently attempt to remove the wire or restrict its use.

III. CONCLUSION

The Commission should modify its cable home wiring rules in accordance with the comments set forth herein.

Respectfully submitted,

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